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Attorneys for Plaintiff,  
CELLSPIN SOFT INC.

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CELLSPIN SOFT, INC.,

Plaintiff,

v.

MOOV INC. D/B/A MOOV FITNESS  
INC.,

Defendant.

Case No. 3:17-cv-05929

**COMPLAINT FOR INFRINGEMENT  
OF U.S. PATENT NOS. 8,738,794,  
8,892,752, AND 9,749,847**

**DEMAND FOR JURY TRIAL**

Complaint Filed: October 16, 2017

**NATURE OF THE ACTION**

1. This is a patent infringement action to stop Defendant's infringement of United States Patent Nos. 8,738,794 entitled "Automatic Multimedia Upload for Publishing Data and Multimedia Content" (the "794 patent"), 8,892,752 entitled "Automatic Multimedia Upload for Publishing Data and Multimedia Content" (the "752 patent"), and 9,749,847 entitled "Automatic Multimedia Upload for Publishing Data and Multimedia Content" (the "847 patent") (collectively, the "Patents-in-Suit").

**THE PARTIES**

2. Plaintiff, Cellspin Soft, Inc. ("Cellspin"), is a California corporation with an office and place business at 1410 Mercy Street, Mountain View, California 94041.

3. Upon information and belief, Defendant, Moov Inc. d/b/a Moov Fitness Inc. ("Moov"), is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 152 Holly Court, Mountain View, California 94043. Upon

1 information and belief, Moov Inc. can be served with process through its registered agent CT  
2 Corporation System at 818 West 7th Street, Suite 930, Los Angeles, California 90017.

3 **JURISDICTION AND VENUE**

4 4. This action arises under the patent laws of the United States, 35 U.S.C. § 1 et seq.,  
5 including 35 U.S.C. §§ 271, 281, 283, and 284. This Court has subject matter jurisdiction over  
6 this case for patent infringement, including pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7 5. Plaintiff is the assignee of the Patents-in-Suit with all right, title and interest to bring the  
8 claims herein comprising those for past and present infringement, including to recover  
9 damages therefor.

10 6. The Court has personal jurisdiction over Moov, including because Moov has minimum  
11 contacts within the State of California; Moov has purposefully availed itself of the privileges  
12 of conducting business in the State of California; Moov regularly conducts business within the  
13 State of California; and Plaintiff's cause of action arises directly from Moov's business  
14 contacts and other activities in the State of California, including at least by virtue of Moov's  
15 infringing methods and products, which are at least practiced, made, used, offered for sale, and  
16 sold in the State of California. Moov is subject to this Court's specific and general personal  
17 jurisdiction, pursuant to due process and the California Long Arm Statute, due at least to its  
18 continuous and systematic business contacts in California, including related to operations  
19 conducted from its Mountain View, California headquarters and the infringements alleged  
20 herein. Further, on information and belief, Moov is subject to the Court's specific jurisdiction,  
21 including because Moov has committed patent infringement in the State of California,  
22 including as detailed herein. In addition, Moov induces infringement of the Patents-in-Suit by  
23 customers and/or infringing users located in California. Further, on information and belief,  
24 Moov regularly conducts and/or solicits business, engages in other persistent courses of  
25 conduct, and/or derives substantial revenue from goods and services provided to persons  
26 and/or entities in California.

27 7. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 1400(b), including  
28 because Moov has at least one regular and established place of business in this District and in

1 California, including in view of its Mountain View, California headquarters, and at least some  
2 of its infringement of the patent-in-suit occurs in this District and in California.

3 **COUNT I – INFRINGEMENT OF U.S. PATENT NO. 8,738,794**

4 8. Plaintiff refers to and incorporates herein the allegations in the above paragraphs.

5 9. United States Patent No. 8,738,794 Patent was duly and legally issued by the USPTO  
6 on May 27, 2014 after full and fair examination. *See* Exhibit A.

7 10. Claims of the '794 Patent comprise, in general, methods comprising acquiring new data  
8 in a data capture device after establishing a paired connection with a mobile device;  
9 determining the existence of new data by the capture device; transferring the new data from  
10 the capture device to the mobile device automatically over the paired connection; applying a  
11 user identifier uniquely identifying a particular user to the new data; transferring the new data  
12 along with the user identifier to a web service; and making available, at the web service, the  
13 new data received from the mobile device over the internet, wherein the new data corresponds  
14 to the user identifier.

15 11. Moov has infringed, and is now infringing, the '794 patent, including at least claims 1,  
16 2, 3, 4, 7, and 9, in this judicial district, the State of California, and elsewhere, in violation of  
17 35 U.S.C. § 271 through actions comprising the practicing, without authority from Plaintiff,  
18 methods for acquiring and transferring data from Moov Bluetooth enabled data capture devices  
19 to Moov web services via Bluetooth enabled mobile devices. On information and belief, Moov  
20 at least practices the claimed methods via its fitness tracking devices, including smart watches,  
21 wearables, fitness bands, and other data capture devices, designed to monitor a user's  
22 biological and/or fitness information and metrics, *e.g.*, heart rate and physical activity such as  
23 walking and/or running, as specified herein, comprising Bluetooth functionality, with such  
24 products comprising the MOOV HR Burn, MOOV Now, MOOV HR Sweat, MOOV HR  
25 Swim, MOOV HR, and MOOV Classic, including when used in conjunction with Moov  
26 mobile applications (including iOS and Android versions thereof) comprising Moov Coach  
27 and/or Moov Fitness Coach, including when used in conjunction with web services comprising  
28 welcome.moov.cc.

1 12. Without limitation, the accused methods, comprising Moov devices and software which  
2 practice said methods, support Bluetooth protocols, including Bluetooth 4.0, which enables  
3 connection between such devices and other Bluetooth-enabled mobile devices, such as a cell  
4 phone, tablet, laptop, or other mobile device, and which permits the user to acquire and transfer  
5 data from Moov devices to the Moov web services via a Bluetooth enabled mobile device. The  
6 accused Moov methods comprise acquiring and determining the existence of new tracking  
7 data, such as heart rate, steps, etc., in the Moov device after establishing a paired connection  
8 with the mobile device, and transferring the new data from the Moov device to the mobile  
9 device automatically over the paired connection. The accused Moov methods further comprise  
10 the Moov applications receiving the new data from the Moov device and transferring the new  
11 data, along with the account information identifying the user, and tied to the new data, to the  
12 Moov web service, such that the Moov web service receives, and makes available, the new  
13 data received over the Internet. Upon information and belief, at least through Moov's  
14 hardware, software, and efforts to test, demonstrate, and otherwise use Moov devices, Moov  
15 has practiced the accused Moov methods via at least the use of Moov devices, comprising at  
16 least the foregoing steps.

17 13. Additionally, or in the alternative, Moov has infringed, and now infringing, the '794  
18 Patent in this judicial district, the State of California, and elsewhere, jointly with end users  
19 and/or customers (collectively, "users"), wherein all of the foregoing steps are performed by  
20 Moov and/or users. Without limitation, Moov provides software modules for Moov Bluetooth  
21 enabled capture devices and Moov applications comprising software modules, and Moov  
22 further receives new data at its web services and makes said new data available via its web  
23 services. Further, without limitation, user mobile devices perform at least the remaining steps  
24 in the claimed methods under the direction or control of Moov, including Moov software and  
25 hardware, including because user mobile devices perform said steps in order to receive the  
26 benefits of Moov's web services and/or application, and/or because Moov conditions use of  
27 its web services and/or applications upon performance of the remaining method steps.

28 14. Moov has had notice of its infringement of the '794 patent pursuant to notifications from

1 Plaintiff comprising letters mailed on June 15, 2017 and August 31, 2017.

2 15.To the extent Moov continues, and has continued, its infringing activities noted above  
3 in an infringing manner post-notice of the ‘794 patent, such infringement is necessarily willful  
4 and deliberate. Plaintiff believes and contends that Moov’s continuance of its clear and  
5 inexcusable infringement of the ‘794 patent post notice is willful, wanton, malicious, bad-  
6 faith, deliberate, and/or consciously wrongful.

7 16.Including on account of the foregoing, Plaintiff contends such activities by Moov  
8 qualify this as an egregious case of misconduct beyond typical infringement, entitling Plaintiff  
9 to enhanced damages. Including based on the foregoing, Plaintiff hereby respectfully requests  
10 an award of enhanced damages, including treble damages, pursuant to 35 U.S.C. § 284.

11 17.Each of Moov’s aforesaid activities have been without authority and/or license from  
12 Plaintiff.

13 **COUNT II – INFRINGEMENT OF U.S. PATENT NO. 8,892,752**

14 18.Plaintiff refers to and incorporates herein the allegations in the above paragraphs.

15 19.U.S. Patent No. 8,892,752 was duly and legally issued by the USPTO on November 18,  
16 2014 after full and fair examination. *See* Exhibit B.

17 20.Claims of the ‘752 Patent comprise, generally, methods comprising establishing a  
18 secure paired Bluetooth connection between a Bluetooth enabled data capture device and a  
19 Bluetooth enabled mobile device using an encryption key; acquiring new data in the capture  
20 device; receiving a message from the mobile device over the paired connection to enable event  
21 notification corresponding to new data on the capture device; determining existence of the new  
22 data for transfer; sending an event notification to the mobile device, corresponding to existence  
23 of the new data, over the paired connection, wherein the mobile device is configured to listen  
24 for the event notification; and transferring the encrypted data from the data capture device to  
25 the mobile device, over the paired connection, wherein the mobile device sends the obtained  
26 new data with an attached user identifier, a hypertext transfer protocol method, and a  
27 destination web address to a remote internet server.

28 21.Moov has infringed, and is now infringing, the ‘752 patent, including at least claims 1,

1 2, 4, 5, 12, 13, and 14, in this judicial district, the State of California, and elsewhere, in  
2 violation of 35 U.S.C. § 271 through actions comprising the practicing, without authority from  
3 Plaintiff, methods for transferring data from Moov Bluetooth enabled data capture device to  
4 remote Moov internet servers via Bluetooth enabled mobile devices. On information and  
5 belief, Moov practices, and/or induces others to practice, the claimed methods via its fitness  
6 tracking devices, including smart watches, wearables, fitness bands, and other data capture  
7 devices, designed to monitor a user's biological and/or fitness information and metrics, *e.g.*,  
8 heart rate and physical activity such as walking and/or running, as specified herein, comprising  
9 Bluetooth functionality, with such products comprising the MOOV HR Burn, MOOV Now,  
10 MOOV HR Sweat, MOOV HR Swim, MOOV HR, and MOOV Classic, including when used  
11 in conjunction with Moov mobile applications (including iOS and Android versions thereof)  
12 comprising Moov Coach and/or Moov Fitness Coach, including when used in conjunction with  
13 web services comprising welcome.moov.cc.

14 22. Without limitation, the accused methods comprising Moov devices and software which  
15 practice said methods support Bluetooth protocols, including Bluetooth 4.0, which enables  
16 connection between these devices and other Bluetooth-enabled devices, such as a cell phone,  
17 laptop, tablet, or other mobile device, which permits the user to establish a secure connection  
18 between Moov devices and a mobile device and acquire and transfer data from the Moov  
19 devices to the Moov web services via the mobile device. The accused Moov methods comprise  
20 establishing a secure paired Bluetooth connection between the Moov device and the mobile  
21 device using a Bluetooth encryption key. Once paired, new data is acquired on the Moov  
22 device, the Moov device receives a message from the mobile device over the paired connection  
23 to enable event notifications which correspond to new data on the Moov device, the Moov  
24 device determines the existence of the new data for transfer, and the Moov device sends an  
25 event notification to the mobile device over the paired connection, corresponding to existence  
26 of new data for transfer, wherein the mobile device is configured to listen for the event  
27 notification. The encrypted data is transferred from the Moov device to the mobile device over  
28 the paired connection, wherein the mobile device sends the obtained new data along with the



1 account information, a hypertext transfer protocol operation, and a destination web address to  
2 the Moov web server. Upon information and belief, at least through Moov's hardware,  
3 software, and efforts to test, demonstrate, and otherwise use Moov devices, Moov has  
4 practiced the accused Moov methods via at least the use of Moov devices, comprising at least  
5 the foregoing steps.

6 23. Moov has had notice of its infringement of the '752 patent pursuant to notifications from  
7 Plaintiff comprising letters mailed on June 15, 2017 and August 31, 2017.

8 24. Additionally, or in the alternative, Moov has induced, and continues to induce,  
9 infringement of the '752 Patent in this judicial district, the State of California, and elsewhere,  
10 by actively inducing direct infringement of the '752 Patent, including by knowingly and  
11 actively aiding or abetting infringement by users, by and through at least instructing and  
12 encouraging the use of the Moov products and software noted above. Such aiding and abetting  
13 comprises providing devices, software, web servers, and/or instructions regarding the use  
14 and/or operation of the Moov devices, applications, and web servers in an infringing manner.  
15 Further, the direct infringement of users that occurs in connection with Moov's applications  
16 and/or web services occurs under the direction or control of Moov, including Moov software  
17 and hardware, including because user devices perform said steps in order to receive the  
18 benefits of Moov's web services and/or mobile application, and/or because Moov conditions  
19 use of its web services and/or mobile applications upon performance of the remaining method  
20 steps. Such induced infringement has occurred since Moov became aware of the '752 Patent,  
21 at a minimum, as noted above, and the knowledge and awareness that such actions by users  
22 comprise infringement of the '752.

23 25. To the extent Moov continues, and has continued, its infringing activities noted above  
24 in an infringing manner post-notice of the '752 patent, such infringement is necessarily willful  
25 and deliberate. Plaintiff believes and contends that Moov's continuance of its clear and  
26 inexcusable infringement of the '752 patent post notice is willful, wanton, malicious, bad-  
27 faith, deliberate, and/or consciously wrongful.

28 26. Including on account of the foregoing, Plaintiff contends such activities by Moov

1 qualify this as an egregious case of misconduct beyond typical infringement, entitling Plaintiff  
2 to enhanced damages. Including based on the foregoing, Plaintiff hereby respectfully requests  
3 an award of enhanced damages, including treble damages, pursuant to 35 U.S.C. § 284.

4 27.Each of Moov's aforesaid activities have been without authority and/or license from  
5 Plaintiff.

6 **COUNT III – INFRINGEMENT OF U.S. PATENT NO. 9,749,847**

7 28.Plaintiff refers to and incorporates herein the allegations in the above paragraphs.

8 29.U.S. Patent No. 9,749,847 was duly and legally issued by the USPTO on August 29,  
9 2017 after full and fair examination. *See* Exhibit C.

10 30.Claims of the '847 Patent comprise, generally, systems comprising a capture device  
11 comprising: a communication device configured to establish a secure paired connection with  
12 a cellular phone, a processor configured to acquire new-data using a data capture circuitry after  
13 the paired connection is established, wherein said processor is configured to store the acquired  
14 new-data in a coupled memory device and send an event notification along with the acquired  
15 new-data to the cellular phone over the paired connection; and a mobile application comprising  
16 a graphical user interface in the cellular phone configured to listen for and receive the event  
17 notification, receive the acquired new-data over the established paired connection, store the  
18 new-data in a memory device of the cellular phone before transfer to a website, and use HTTP  
19 to transfer the new-data, along with user information, to the website over a cellular data  
20 network.

21 31.Moov has infringed, and is now infringing, the '847 patent, including at least claims 1,  
22 2, and 3, in this judicial district, the State of California, and elsewhere, in violation of 35 U.S.C.  
23 § 271 through actions comprising the making, using, offering for sale, and/or selling, without  
24 authority from Plaintiff, systems for transferring data from Moov Bluetooth enabled data  
25 capture devices to Moov websites via Bluetooth enabled cellular phones. On information and  
26 belief, Moov makes, uses, offers for sale, and/or sells, and/or induces others to use, the claimed  
27 systems, including fitness tracking devices, including smart watches, wearables, fitness bands,  
28 and other data capture devices, designed to monitor a user's biological and/or fitness



1 information and metrics, *e.g.*, heart rate and physical activity such as walking and/or running,  
2 as specified herein, comprising Bluetooth functionality, with such products comprising the  
3 MOOV HR Burn, MOOV Now, MOOV HR Sweat, MOOV HR Swim, MOOV HR, and  
4 MOOV Classic, including when used in conjunction with Moov mobile applications  
5 (including iOS and Android versions thereof) comprising Moov Coach and/or Moov Fitness  
6 Coach.

7 32. Without limitation, the accused Moov devices support Bluetooth protocols, including  
8 Bluetooth 4.0, which enables connection between such devices and other Bluetooth-enabled  
9 devices, such as a cellular phone, which permits the user to establish a secure connection  
10 between the Moov devices and a cellular phone and acquire and transfer data from the Moov  
11 devices to the Moov web services via the cellular phone. These Moov devices comprise  
12 capture devices, comprising a communication device within the Moov devices configured to  
13 establish a secure paired connection with a cellular phone, a processor configured to acquire  
14 new-data on the Moov devices, *e.g.*, heart rate or step tracking data, using data capture circuitry  
15 within the Moov devices after the paired connection is established. The processor within the  
16 Moov devices is coupled to a memory device within said devices, wherein said processor is  
17 configured to store the acquired new-data in the memory device and send an event notification,  
18 along with the acquired new-data, to the authenticated and paired cellular phone over the  
19 established paired connection. The Moov application comprises a graphical user interface for  
20 operation on the cellular phone, and the Moov application is configured to listen for and  
21 receive the event notification from the Moov devices, receive the acquired new-data over the  
22 established paired connection from the Moov devices, store the new-data in a memory device  
23 of the cellular phone before transfer to the Moov websites, and use HTTP to transfer the new-  
24 data, along with the account information, to the Moov websites over a cellular data network  
25 servicing the cellular phone. In addition, and in the alternative, to Moov's making, offering for  
26 sale, and/or selling of the Moov devices and applications, upon information and belief, at least  
27 through Moov's hardware, software, and efforts to test, demonstrate, and otherwise use Moov  
28 devices, Moov has used the claimed systems via at least the use of the Moov devices as noted

1 above.

2 33. Moov has had notice of its infringement of the '847 patent pursuant to notification from  
3 Plaintiff comprising a letter mailed on August 31, 2017.

4 34. Additionally, or in the alternative, Moov has induced, and continues to induce,  
5 infringement of the '847 Patent in this judicial district, the State of California, and elsewhere,  
6 by intentionally inducing direct infringement of the '847 Patent, including by knowingly and  
7 actively aiding or abetting infringement by users, by and through at least instructing and  
8 encouraging the use of the Moov products and software noted above. Such aiding and abetting  
9 comprises providing devices, hardware, software, websites, and/or instructions, including  
10 providing the accused Moov devices and applications to users who, in turn, use the claimed  
11 systems, including as noted above. Further, the direct infringement by users of the claimed  
12 systems provides the user with a direct benefit from the use of Moov devices and applications.  
13 Such induced infringement has occurred since Moov became aware of the '847 Patent, at a  
14 minimum, as noted above, and the knowledge and awareness that such actions and use by users  
15 comprise infringement of the '847.

16 35. To the extent Moov continues, and has continued, its infringing activities noted above  
17 in an infringing manner post-notice of the '847 patent, such infringement is necessarily willful  
18 and deliberate. Plaintiff believes and contends that Moov's continuance of its clear and  
19 inexcusable infringement of the '847 patent post notice is willful, wanton, malicious, bad-  
20 faith, deliberate, and/or consciously wrongful.

21 36. Including on account of the foregoing, Plaintiff contends such activities by Moov  
22 qualify this as an egregious case of misconduct beyond typical infringement, entitling Plaintiff  
23 to enhanced damages. Including based on the foregoing, Plaintiff hereby respectfully requests  
24 an award of enhanced damages, including treble damages, pursuant to 35 U.S.C. § 284.

25 37. Each of Moov's aforesaid activities have been without authority and/or license from  
26 Plaintiff.

### 27 **DAMAGES**

28 38. By way of its infringing activities, Moov has caused, and continues to cause, Plaintiff

1 to suffer damages, and Plaintiff is entitled to recover from Moov the damages sustained by  
2 Plaintiff as a result of Moov's wrongful acts in an amount subject to proof at trial, which, by  
3 law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this  
4 Court under 35 U.S.C. § 284.

5 39. Moov's infringement of Plaintiff's rights under the Patents-in-Suit will continue to  
6 damage Plaintiff, causing irreparable harm for which there is no adequate remedy at law,  
7 unless enjoined by this Court.

8 40. Plaintiff also requests that the Court make a finding that this is an exceptional case  
9 entitling Plaintiff to recover their attorneys' fees and costs pursuant to 35 U.S.C. § 285.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff hereby respectfully requests that this Court enter judgment in favor of Plaintiff and against Moov, and that the Court grant Plaintiff the following relief:

- A. An adjudication that one or more claims of the Patents-in-Suit has been directly and/or indirectly infringed by Moov;
- B. An award to Plaintiff of damages adequate to compensate Plaintiff for Moov's past infringement, together with pre-judgment and post-judgment interest, and any continuing or future infringement through the date such judgment is entered, including interest, costs, expenses, and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;
- C. A grant of preliminary and permanent injunction pursuant to 35 U.S.C. § 283, enjoining Moov and all persons, including its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert or participation therewith, from making, using, offering to sell, or selling in the United States or importing into the United States any methods, systems, or computer readable media that directly or indirectly infringe any claim of the Patents-in-Suit, or any methods, systems, or computer readable media that are colorably different;
- D. That this Court declare that Moov's infringement has been, and continues to be, willful, including that Moov acted to infringe the Patents-in-Suit despite an objectively high likelihood that its actions constituted infringement of a valid patent and, accordingly, award enhanced damages, including treble damages, pursuant to 35 U.S.C. § 284;
- E. That this Court declare this to be an exceptional case and award Plaintiff reasonable attorneys' fees and costs in accordance with 35 U.S.C. § 285; and
- F. A judgment and order requiring Moov to pay Plaintiff their damages, costs, expenses, fees, and prejudgment and post-judgment interest for Moov's infringement of the Patents-in-Suit as provided under 35 U.S.C. §§ 284 and/or 285; and
- G. Any and all further relief for which Plaintiff may show itself justly entitled that this Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff hereby respectfully requests a trial by jury of any issues so triable by right.

Dated: October 16, 2017

**COLLINS EDMONDS  
SCHLATHER & TOWER, PLLC**

By: /s/ John J. Edmonds

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